

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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United States of America,

Case No. 22-cr-217 (PJS/DJF)

Plaintiff,

v.

**ORDER**

Joshua Lee Sinawa,

Defendant.

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This matter is before the Court on parties' motions for discovery, disclosure, and other non-dispositive relief. Having reviewed the parties' submissions, the Court does not believe a hearing would be necessary or helpful in resolving these disputes. Based on the non-dispositive motions, and on the entire file, the Court enters the following Order.

**I. The Government's Motion for Discovery (ECF No. [14])**

The Government seeks discovery and disclosure as required by Federal Rules of Criminal Procedure 12.2, 16(b) and 26.2, and Federal Rules of Evidence 702, 703 and 705. The government's motion is **GRANTED** insofar as Mr. Sinawa shall provide discovery to the extent required by the applicable Rules. With respect to expert discovery pursuant to Rules 16(a)(1)(G) and 16(b)(1)(C), the following deadlines shall apply:

- a. Government's expert disclosures: **28 days prior to trial.**
- b. Defendant's expert disclosures: **21 days prior to trial.**

**II. Mr. Sinawa's Motion to Compel Attorney for the Government to Disclose Evidence Favorable to the Defendant (ECF No. [15])**

Mr. Mack's motion to compel the Government to disclose evidence favorable to the defendant is **GRANTED** to the extent required by *Brady v. Maryland*, 373 U.S. 83 (1963), *United*

*States v. Giglio*, 405 U.S. 150 (1972), and their progeny. These cases impose affirmative and ongoing disclosure obligations on the government.

**III. Mr. Sinawa’s Motion for Discovery and Inspection (ECF No. [16]) and Motion for Discovery of Expert under Rule 16(a)(1)(G) (ECF No. [19])**

Mr. Sinawa’s motion is **GRANTED** insofar as the government shall provide discovery to the extent required by Rules 16 and 26.2 of the Federal Rules of Civil Procedure, *Brady v. Maryland*, 373 U.S. 83 (1963), and all other applicable statutory and constitutional rules. With respect to expert discovery pursuant to Rules 16(a)(1)(G) and 16(b)(1)(C), the following deadlines shall apply:

- a. Government’s expert disclosures: **28 days prior to trial.**
- b. Defendant’s expert disclosures: **21 days prior to trial.**

**IV. Mr. Sinawa’s Motion for Disclosure of Early Jencks Act Material (ECF No. [17])**

Mr. Mack’s Motion for early disclosure of Jencks Act material is **DENIED**. *United States v. White*, 750 F.2d 726, 728–29 (8th Cir. 1984). However, the government has agreed to make liberal early disclosures of Jencks Act Material. The Court encourages the government to provide any Jencks Act material it has not already disclosed at least two weeks prior to trial. Moreover, the Court encourages the government to engage in “open-file” discovery, if possible, to ensure that there are no unnecessary delays at trial and the promote the fairness of the proceeding.

**V. Mr. Sinawa’s Motion for Retention of Rough Notes (ECF No. [18])**

Mr. Sinawa’s Motion for an order requiring the government’s investigators to retain and preserve their rough notes is **GRANTED**. Disclosure of rough notes is not required at this time.

**VI. Motion for Disclosure of 404(b) Evidence (ECF No. [20])**

Mr. Sinawa’s motion for disclosure of evidence the government may introduce pursuant to Federal Rule of Evidence 404(b) is **GRANTED**. The government shall provide the notice required

by Rule 404(b) at least **28 days prior to trial**. The notice requirement does not apply to evidence of conduct that is inextricably intertwined with the offense conduct charged.

Dated: October 28, 2022

*s/ Dulce J. Foster*

Dulce J. Foster

United States Magistrate Judge